

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Energy Competition Standards

Interim Environmental Information Disclosure Standards; Affiliate

Relations, Fair Competition and Accounting Standards and Related

Reporting Requirements; and Interim Government Energy Aggregation

Program Standards

Readoption with Amendments; N.J.A.C. 14:4-4, 5 and 6.

Proposed: April 15, 2002 at 34 N.J.R. 1524 (d).

Adopted: , 2002 by the Board of Public Utilities, Jeanne M. Fox, President, and
Frederick F. Butler, Carol J. Murphy and Connie O. Hughes, Commissioners.

Filed: , 2002 as R.2002 d. , **without change**.

Authority: N.J.S.A. 48:2-13 and 48:3-48 et seq.

BPU Docket Number: EX99030182

Effective Date:

Expiration Date: January 9, 2006.

Summary of Public Comments and Agency Responses:

Comments were received from the following individuals:

Gregory Eisenstark, Esq., Assistant General Solicitor, Public Service Electric and
Gas Company, on behalf of Public Service Electric and Gas Company and PSEG
Power LLC (collectively referred to as PSEG);

Adam Kaufman, Executive Director, on behalf of the Independent Energy Producers of New Jersey (IEPNJ);

Leah Gibbons, Director, External Relations, PG&E National Energy Group, on behalf of Green Mountain Energy Company, HQ Energy Services U.S., Inc., and PG&E National Energy Group (collectively referred to as PG&E/Green Mountain/HQ);

Julie L. Friedberg, Esq. and Mark B. Laskey, Esq., Thelen, Reid & Priest LLP, on behalf of Jersey Central Power & Light Company (JCP&L);

Felicia Thomas-Friel, Esq., on behalf of the Division of the Ratepayer Advocate (RPA);

Steven S. Goldenberg, Esq. Greenbaum, Rowe, Smith, Ravin, Davis & Himmel LLP, on behalf of AES NewEnergy, Inc. (AES); and

R. William Potter, Esq., Potter and Dickson (Potter).

N.J.A.C. 14:4-4 Interim Environmental Information Disclosure Standards

COMMENT: PG&E /Green Mountain/HQ, PSE&G, and IEPNJ state that a system that separates environmental attributes from energy and allows for the trading of those attributes is the most cost-effective, efficient, flexible, and accurate means of accounting for the characteristics of every megawatt of power generated. The Board should, therefore, amend the disclosure rules by allowing the buying and selling of certificates administered by the Board or the PJM Interconnection (PJM).

RESPONSE: The readoption of the Interim Environmental Disclosure Standards (Interim Standards) set out in subchapter 4 is being undertaken at this time to avoid a lapse in the disclosure requirements. Further environmental disclosure standards will

be promulgated by the Board upon completion of a tracking system, currently under development by PJM, with input from the members of its Generation Attributes Tracking System (GATS) Working Group. The design of the tracking system has not been finalized or approved by the Board. The Board, in consultation with the New Jersey Department of Environmental Protection (DEP), is seeking a tracking system that discloses the most accurate environmental information to customers and supports the generation of increased amounts of renewable energy to serve New Jersey retail customers. Over the next few months, Board staff will continue to work with PJM, the PJM GATS Working Group, the RPA and other interested parties, to develop a tracking system and further standards that address the needs of retail customers, the regulators and market participants. At that time, the Board will initiate an appropriate rulemaking proceeding that is consistent with the Administrative Procedure Act.

COMMENT: PSE&G states that the readoption of the Interim Standards, as is, does not adequately address the complexities of supplying basic generation service (BGS) with the shift of responsibility from the incumbent utilities to winners of the BGS auction. The readoption of this rule should be withheld until this issue can be addressed, after input from interested stakeholders.

RESPONSE: As stated in the prior response, the readoption of the Interim Standards is being undertaken at this time to avoid a lapse in disclosure requirements. Insufficient time precludes the drafting of a new rule proposal before September 2002, with interested party participation, to address the complexities of the BGS auction process. Future standards will address this shift in the provision of electricity to retail customers. At this time, it is more efficient for the BGS suppliers and utilities to work with PJM to develop a single environmental disclosure label for distribution by the utility to each retail customer, based on the environmental

attributes of the electricity supplied by the winners of the BGS auction. Further standards that will address this issue will be promulgated as soon as possible after the development of the tracking system. For the forthcoming distribution of the environmental disclosure labels, BGS suppliers should be held accountable for the accuracy of the environmental data, while the utility should be held responsible for the distribution of such information.

COMMENT: PG&E/ Green Mountain/ HQ state that any tracking system should be accurate, cost-effective and compatible with accounting systems in surrounding regions.

RESPONSE: PJM, in its development of the tracking system, is considering the accuracy of the environmental data provided, the development and annual operating costs, and compatibility with the requirements of other tracking systems, including those in New York and New England, as well as the reporting requirements in Maryland.

COMMENT: PG&E/ Green Mountain/ HQ states that wholesale power is commingled from multiple sources into pools and bought and sold among numerous parties without identifying generation sources. Accordingly, under the contract path system, it would be difficult for regulators to know if these attributes have been sold to another party, thus introducing the potential for double counting.

RESPONSE: The possibility of double-counting environmental attributes by retail suppliers is a serious concern, particularly when it is related to energy generated in other control areas and imported into PJM. PJM is aware of the double-counting issue and will be addressing the potential for abuse in the tracking system.

COMMENT: IEPNJ states that in the contract path tracking system, the renewable resources are counted once as part of the specific fuel mix of the purchasing suppliers and a second time as part of the PJM's regional average. IEPNJ argues that

PJM should insure that renewable resources under contract to a specific supplier are not double counted as part of the regional average.

RESPONSE: Any tracking system that is finally developed and adopted will address the possibility of double-counting of environmental attributes. In the current contract path tracking design, renewable resources under contract to specific suppliers would be netted out of the regional average by PJM to prevent double-counting of the environmental attributes.

COMMENT: IEPNJ states that a certificate-type of system is more liquid than a contract-based system and will allow renewable suppliers to more easily “monetize” their attributes.

RESPONSE: One goal of the environmental disclosure standards is to support the generation of increased amounts of renewable energy. The Board intends to work with generators of renewable energy to develop further environmental disclosure standards that meets the needs of the renewable energy industry and encourages its growth.

COMMENT: PG&E/ Green Mountain/ HQ states that the contract path tracking system does not adequately address spot market or system power purchases, relying on default or average fuel mix and emissions characteristics.

RESPONSE: The tracking system should provide the most accurate environmental information to retail customers and should minimize reliance on averages or defaults. The developers of the tracking system will be addressing this concern.

COMMENT: PG&E/ Green Mountain/ HQ states that the contract path tracking system penalizes generation from intermittent resources because the generation cannot be matched with the customer’s consumption in each hour.

RESPONSE: It is not necessary to match generation with hourly consumption. The PJM tracking system would aggregate the hourly data for a set period of time. The energy depicted on the environmental disclosure label would be the 12-month average of the electricity supplied by the retail supplier.

COMMENT: PG&E/ Green Mountain/ HQ states that the current methodology for the tracking system is economically inefficient, with higher administrative costs for suppliers and regulators, and resultant higher costs for customers.

RESPONSE: The issue of tracking system costs is an important consideration that includes the system development cost, the annual operating cost, the compliance cost for the retail suppliers, the costs to the regulators, and the possible impact on the prices of retail electricity. These considerations will be included in the ongoing discussions on tracking system development.

COMMENT: The RPA supports the goals of the Interim Standards to provide accurate information to customers; to collect usable information so that the State can address the impact of air pollutants on New Jersey's air quality; and to assist state agencies in tracking the environmental impact of deregulation of the electric industry.

RESPONSE: The Board agrees that the tracking system should provide reliable information to customers about the environmental consequences of their power supply options and data to State agencies to allow an analysis of the environmental impacts of deregulation, in addition to assistance to suppliers in the development of their disclosure labels.

COMMENT: The RPA states that the Board should actively pursue discussions with PJM regarding the determination and allocation of costs of the tracking system.

RESPONSE: The identification and allocation of costs related to the development and operation of the tracking system is an integral part of the ongoing collaboration among PJM, market participants, New Jersey agencies and representatives from other states in the PJM control area.

COMMENT: The RPA states that the section of the disclosure label depicting efficiency information, as required by N.J.A.C. 14:4-4.1 and 14:4-4.4, should be replaced with a graphic that shows the total statewide reduction in emissions by generators, including efficiency and conservation efforts on both the supply and demand sides, over a five to ten year period.

RESPONSE: Any further environmental disclosure standards, which will be promulgated after the completion of the tracking system, will include a redesigned disclosure label. Board staff will be working with the PJM GATS Working Group and other interested parties to design a disclosure label that will present the environmental information in a more friendly and readable format. The possibility of depicting the overall environmental benefits to the State on the disclosure labels will be considered during this time.

COMMENT: JCP&L states that the environmental disclosure standards in N.J.A.C. 14:4-4.4 should permit the labels to reference the investments in energy efficiency and renewable energy programs made with funds collected through the Societal Benefits Charge (SBC).

RESPONSE: The current environmental disclosure standards, which do not allow utilities to take credit for energy efficiency and conservation investments made by the ratepayers through the SBC, is inconsistent with the Interim Renewable Portfolio

Standards (RPS), which do allow electricity suppliers to rely on SBC-funded projects to comply with renewable energy percentage requirements. Any further environmental disclosure standards and renewable portfolio standards will address such inconsistency. The point that customers should be as fully informed as possible, through the environmental disclosure label, about the positive environmental impact of the SBC funds that they provide, will be considered during the development process of any further standards.

COMMENT: With regard to N.J.A.C. 14:4-4.5, PG&E/ Green Mountain/ HQ states that in the contract path tracking system, suppliers are forced into bilateral contracts with each renewable energy generator, increasing transaction costs, thereby limiting the ability of suppliers to tailor products based on consumer preferences, and creating administrative and financial burdens for market participants.

RESPONSE: In addition to accurate disclosure of environmental information to customers, the environmental disclosure standards should encourage increased generation from renewable energy sources and support the creation of a multitude of electricity products to allow genuine customer choice. It is a concern if administrative and financial burdens prevent the development of different electricity products and minimize customer choice. The Board reiterates that the tracking system has not been finalized and the Board has made no determination on tracking system specifications. The concerns raised should be addressed during the ongoing development of the tracking system.

COMMENT: With regard to N.J.A.C. 14:4-4.10, IEPNJ states that the environmental disclosure standards should more clearly define penalties for violations of

disclosure requirements. The absence of specific monetary penalties and a description of conditions under which license suspension or revocation will occur provide insufficient and murky disincentives for noncompliance.

RESPONSE: Any further environmental disclosure standards, adopted after the development and implementation of the tracking system, will provide greater definition of the penalties. Such determinations of when specific penalties would be imposed require that the tracking system be fully developed and operational to ensure accurate verification of non-compliance.

N.J.A.C. 14:4-5 Affiliate Relations, Fair Competition and Accounting Standards and Related Reporting Requirements

COMMENT: AES proposes that the Board include within N.J.A.C. 14:4-5.2, the following language to define of the term “retail” in order to clarify the scope of the Affiliate Standards: “sale of electric energy and natural gas and related services (including customer account services) to end-use customers for their consumption, regardless of customer class or quantities of the commodity involved.” AES also recommends that the readopted Affiliate Standards should underscore that each utility affiliate that provides any such retail services, in whole or in part, is fully subject to the Affiliate Standards in all of its particulars.

RESPONSE: While AES’s comment has merit, the Board believes that this issue should be addressed at a later date during a complete review of the Affiliate Standards. This review will include an appropriate rulemaking proceeding that will involve a working group, and provide for a hearing at which all interested parties may formally comment.

Pending that rulemaking, the Board will continue to address this issue on case-by-case basis.

COMMENT: JCP&L states that the provisions related to the scope of the Affiliate Standards, currently set out in N.J.A.C. 14:4-5.1(a)1), that apply the operative portions of the Affiliate Standards contained in N.J.A.C. 14:4-5.3 through 5.5 to any holding company affiliate that is “providing or offering competitive services to retail customers in New Jersey”, is overly broad and exceeds reasonable bounds of legitimate regulatory concern. JCP&L believes that the Affiliate Standards should apply to the interactions between the utility and unregulated electric and gas retail sales affiliates, but that it should not apply to affiliates engaged in totally unrelated businesses.

RESPONSE: The Board is of the opinion that this issue should be addressed as part of the complete review of the Affiliate Standards more fully discussed in the immediately preceding response.

COMMENT: Mr. Potter proposes that the definition of Demand Side Management (DSM), set out in N.J.A.C. 14:4-5.2, not be deleted, but instead be harmonized with the definition of Comprehensive Resource Analysis (CRA). He also recommends that the Board prepare an annual state of the markets competition report.

RESPONSE: The Board will include these issues to be addressed within the complete review of the Affiliate Standards, more fully discussed in the immediately preceding responses.

COMMENT: The RPA recommends that the proposed definition of CRA in N.J.A.C. 14:4-5.2 be expanded to specifically include a number of other considerations that the Electric Discount and Energy Competition Act (EDECA) states the Board must

weigh when considering CRA programs. These considerations are environmental benefits, capturing lost opportunities, and making energy services more affordable for low-income customers.

RESPONSE: While it appreciates the concerns expressed by the RPA, the Board would note that the proposed definition is taken verbatim from EDECA and, accordingly, should not be changed.

COMMENT: With regard to N.J.A.C 14:4-5.7(f)1, the RPA recommends that a procedure be implemented concerning the scope of the compliance audit, that would assist the Board in establishing the level of activity transpiring between the utility and its affiliate before the audit commences. The RPA suggests that the Board require the utility to supply this information before the Board prepares the scope of the audit for inclusion in the Request For Proposal (RFP) for hiring the outside auditor. The RPA is not recommending a change in the proposed language in this section of the Affiliate Standards.

RESPONSE: The Board agrees with the RPA's comments and notes that it had already planned on requesting this information before the scope of the audit had been determined. As no change was recommended, the proposed language will be adopted.

N.J.A.C. 14:4-6 Interim Government Energy Aggregation Program Standards

COMMENT: The RPA recommends that the proposed definition of CRA in N.J.A.C. 14:4-6.2 be expanded to specifically include a number of other considerations that EDECA states the Board must weigh when considering CRA programs. These

considerations are environmental benefits, capturing lost opportunities, and making energy services more affordable for low-income customers.

RESPONSE: While it appreciates the concerns expressed by the RPA, the Board would note that the proposed definition is taken verbatim from EDECA and, accordingly, should not be changed.

AGENCY COMMENT: As there is proposed legislation that is presently pending that would, if enacted, amend EDECA, the Board would note that in the event changes to the law create the need to modify any of the standards set out in these subchapters, the Board will initiate an appropriate rulemaking proceeding that is consistent with the provisions of the Administrative Procedure Act.

Federal Standards Statement

A Federal standards analysis is not required because the requirements of the rules proposed for readoption with amendments are not subject to Federal laws, rules or standards.

Full text of the adoption follows.

SUBCHAPTER 5. AFFILIATE RELATIONS, FAIR COMPETITION AND
ACCOUNTING STANDARDS AND RELATED REPORTING
REQUIREMENTS

14:4-5.2 Definitions

The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

...

“Comprehensive resource analysis” or “CRA” means an analysis including, but not limited to, an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace.

...

“Electric related service” means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of CRA measures at the end user’s premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user’s premises, and the provision of energy consumption measurement and billing services.

...

“Gas related service” means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of CRA measures at the end user’s premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user’s premises, and the provision of energy consumption measurement and billing services.

...

“Transmission and distribution system” means any facility or equipment that is used for the transmission, distribution and/or delivery of electricity or natural gas to the end-use

customers including, but not limited to, the land, structures, meters, lines, pipes, switches and all other appurtenances thereof and thereto, owned or controlled by the electric and/or gas public utility, or local distribution company (LDC), respectively within this State.

14:4-5.3 Nondiscrimination

(a)-(l) (No change.)

(m) Except as otherwise provided by these standards, an electric and/or gas public utility shall not provide any assistance, aid or services to its PUHC or related competitive segment of the PUHC if related to customer enrollment, marketing or business development unless offered to all competitors on a non-discriminatory basis.

By way of example but not limited to, an electric or gas public utility shall not:

1.-4. (No change.)

5. Share customer usage or end use equipment information obtained during the course of providing electric and/or gas public utility services, including but not limited to the administration of CRA programs, with its PUHC or a related competitive business segment of its public utility holding company.

6.-8. (No change.)

(n)-(q) (No change.)

14:4-5.5 Separation

(a)-(p) (No change.)

(q) An electric and/or gas public utility and the PUHC or related competitive business segments of its public utility holding company shall not have the same persons serving on the Boards of Directors as corporate officers, except for the following circumstances:

1. (No change.)

2. Where the electric and/or gas public utility is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for the related competitive business segments, the prohibition against any board member or corporate officer of the electric and/or gas public utility also serving as a board member or corporate officer of a related competitive business segment shall only apply to related competitive business segments operating within New Jersey.

i. In the case of shared directors and officers, a corporate officer from the electric and/or gas public utility and holding company shall verify, subject to Board approval, in the electric and/or gas public utility's compliance plan required pursuant to N.J.A.C. 14:4-5.7(a) through (d), the adequacy of the specific mechanisms and procedures in place to ensure that the electric and/or gas public utility is not utilizing shared officers and directors in violation of the Act or these standards.

(r)-(u) (No change.)

14:4-5.6 Competitive products and/or services offered by a utility or related competitive business segments of a utility

(a)-(q) (No change.)

(r) The revenues received by an electric and/or gas public utility or its related competitive business segment(s) for the provision of a competitive product and/or service shall be treated in the following manner:

1. (No change.)

2. For electric public utilities and related competitive business segments of electric public utilities except as set forth in (r)3 below, pursuant to N.J.S.A. 48:3-55(b), 50 percent of the total margins shall be recorded in respective competitive service revenue accounts and treated above-the-line for ratemaking purposes and credited to ratepayers via a credit to the market transition charge, or distribution service charge in a manner to be determined by the Board.

3.-4. (No change.)

(s)-(x) (No change.)

(y) In the event that the Board determines as a result of the audit performed pursuant to N.J.S.A. 48:3-56, N.J.A.C. 14:4-5.7(e) through (g) or by other means, after providing the electric and/or gas public utility an opportunity to be heard, pursuant to Section 8(f)3 of the Act, that an electric and/or gas public utility or its related competitive business segment has violated any provision(s) of this section of these standards, the Board may take one or more of the following actions:

1.-5. (No change.)

14:4-5.7 Regulatory oversight

(a) Each electric and/or gas public utility shall file its compliance plan with

the Board and provide a copy of said plan to the RA at least once in every 12-month period or upon changes to the plan, and thereafter, within 12 months of the revised plan.

(b) Said compliance plan shall demonstrate that there are adequate procedures in place to ensure compliance with these standards and shall include the electric and/or gas public utility's dispute resolution procedure pursuant to N.J.A.C. 14:4-5.8(a).

1. (No change.)

(c) (No change.)

(d) (No change in text.)

(e) At the discretion of the Board, the electric and/or gas public utility shall have an audit prepared by an independent auditor, to be selected by the Board, which verifies that the electric and/or gas public utility is in compliance with these standards.

1. The scope of the audit shall be established by the Board and shall take into consideration the electric and/or gas public utility's level of activity with its affiliates.

(f) An audit performed by an independent auditor shall be at the electric and/or gas public utility's expense.

(g) (No change in text.)

14:4-5.8 Dispute resolution

(a) An electric and/or gas public utility shall establish and file annually with the Board a dispute resolution procedure, including the establishment of a telephone complaint hotline, to address complaints alleging violations of these standards.

1. The procedure shall be included in the electric and/or gas public utility's annual compliance plan.

(b)-(d) (No change.)

14:4-5.9 Violations and penalties

(a) If, as a result of an audit conducted pursuant to N.J.A.C. 14:4-5.7(e) through (g) or by any other means, the Board determines that an electric and/or gas public utility has committed violations of N.J.A.C. 14:4-5.3, 5.4, 5.5, 5.7 or 5.8 which are not substantial violations, the Board is authorized to impose a penalty of up to \$10,000 for each such violation upon said electric and/or gas public utility.

(b) If, as a result of an audit conducted pursuant to N.J.A.C. 14:4-5.7(e) through (g) or by any other means, the Board determines after providing the electric and/or gas public utility notice of a public hearing and an opportunity to be heard, that an electric and/or gas public utility has committed violations of N.J.A.C. 14:4-5.3, 5.4, 5.5, 5.7 or 5.8 which are substantial in nature, the Board is authorized to take some or all of the following actions:

1.-4. (No change.)

SUBCHAPTER 6. INTERIM GOVERNMENT ENERGY AGGREGATION PROGRAM STANDARDS

14:4-6.2 Definitions

The following words and terms, when used in these standards, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Basic gas supply service” or “BGSS” means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the Board.

...

14:4-6.4 Bidding specifications

(a) (No change.)

(b) Bid specifications issued by a cooperative pricing system must reflect whether a member who is not providing initial estimated electric generation service or gas supply service requirements and/or a contracting unit which becomes a member after the contract has been awarded, may utilize such contract with the approval of the lead agency and the selected TPS

(c) Notwithstanding any of the restrictions or conditions set forth in these standards, the lead agency shall determine prior to the solicitation of bids whether the electric generation service or gas supply service estimates submitted by a duly registered member of the system shall be considered firm and binding. If not, a member may withdraw its electric generation service or gas supply service estimate even after a TPS has been selected.

1. (No change.)

(d)-(m) (No change.)

14:4-6.7 Government energy aggregation programs

(a) (No change.)

(b) Any residential and business customer electing to participate must do so affirmatively and voluntarily, only after the terms and conditions of the program have been clearly and plainly articulated in writing to the customer prior to a signature or other Board-approved method of signifying consent authorizing participation.

(c) Residential and business customers who do not voluntarily and affirmatively agree to participate, via written signature or other Board-approved method, may contract with any supplier authorized by law to provide retail services.

(d) A government aggregator may utilize the internet to obtain affirmative and voluntary customer consent to participate in an aggregation program.

(e) A government aggregator that is a municipality or county government may, notwithstanding the provisions of N.J.S.A. 48:3-93 or (a) through (d) above, operate a limited government energy aggregation program which aggregates electric generation service or gas supply service without the initial, affirmative, voluntary, written consent of residential customers for such service(s), either separately or bundled, in accordance with the following procedures outlined in (f) below.

(f)-(g) (No change in text.)

(h) The governing body shall evaluate bids received, and shall select a licensed electric power supplier or gas supplier based upon the most advantageous price and other factors considered.

1. The governing body shall only select a licensed electric power supplier if the TPS rate charged results in a total rate which is lower than the total rate a customer would pay under the State-mandated rate reductions pursuant to N.J.S.A. 48:3-52 and basic generation service price pursuant to N.J.S.A. 48:3-57, respectively, as determined by the Board, throughout the duration of the contract.

(i) The governing body shall enter into a written agreement with the selected TPS, which agreement shall include:

1.-2. (No change.)

3. A provision that such written agreement shall not become effective until the proposed contract in (i)2 above is approved by the Board.

(j) (No change.)

(k) The governing body shall submit an application to the Board for approval of a contract for a limited government energy aggregation program which shall include the following information:

1. (No change.)

2. A copy of the written agreement, accompanied by an index which indicates precisely where in the written agreement each provision required in N.J.A.C. 14:4-6.6(a) and in (i)3 above is set forth;

4. (No change.)

5. A copy of the proposed form of notice, consistent with (q)1 below, which will be utilized to solicit customer consent to the energy aggregation program;

6.-7. (No change.)

Recodify (k)-(n) as (l)-(o) (No change in text).

(p) The selected licensed TPS shall be subject to N.J.S.A. 48:3-86 and Board-adopted customer protection standards.

(q) (No change in text.)

(r) The county government aggregator may only implement a program pursuant to N.J.S.A. 48:3-92(f) and N.J.A.C. 14:4-6.6(g) and (h).

(s) The provisions of N.J.S.A. 48:3-94 and (d) above through (u) below shall only apply to residential customers.

(t) Nothing in N.J.S.A. 48:3-94 or (e) and (f) above shall preclude a limited government aggregation program from including business customers pursuant to N.J.S.A. 48:3-94 or (a) through (c) above.

(u) All customer information obtained by a government aggregator shall be deemed confidential and may not be used or disseminated for any purpose other than the facilitation of the aggregation program. If a government aggregator is unable, for any reason, to ensure the confidentiality and proper use of specific customer information, said customer(s) shall be informed and given the opportunity to cease participation in the aggregation program.